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UNITED STATES DISTRICT COURT	ELECTRONICALLY FILED
SOUTHERN DISTRICT OF NEW YORK	DATE FILED: 7/28/11
YORKSHIRE TOWERS COMPANY, L.P. and YORKSHIRE TOWERS TENANTS ASSOCIATION,	Case No. 10-cv-8973 (TPG)
Plaintiffs,	
-against-	THIRD STIPULATION BETWEEN PLAINTIFFS AND
THE FEDERAL TRANSIT ADMINISTRATION, THE METROPOLITAN TRANSPORTATION AUTHORITY and THE METROPOLITAN TRANSPORTATION AUTHORITY CAPITAL CONSTRUCTION COMPANY,	DEFENDANT STATE PUBLIC AUTHORITIES AND SUBSIDIARY AND EXECUTIVES (COLLECTIVELY THE " <u>MTA</u> ") AND FEDERAL DEFENDANTS
Defendants.	EXTENDING TIME TO ANSWER IN RELATED CASE
YORKSHIRE TOWERS COMPANY, L.P. and YORKSHIRE TOWERS TENANTS ASSOCIATION,	x AND MTA'S TIME TO ANSWER IN FIRST CASE PENDING SETTLEMENT DISCUSSIONS
Plaintiffs,	DISCUSSIONS
-against-	
UNITED STATES DEPARTMENT OF TRANSPORTATION, RAY LAHOOD, in his capacity Secretary of the United States Department of Transportation, THE FEDERAL TRANSIT	
ADMINISTRATION, PETER M. ROGOFF, in his capa as administrator of the Federal Transit Administration, TMETROPOLITAN TRANSPORTATION AUTHORITY JAY H. WALDER, in his capacity as Chairman of the Metropolitan Transportation Authority, THE NEW YOR CITY TRANSIT AUTHORITY, THOMAS F. PRENDERGAST, JR., in his capacity as President of the New York City Transit Authority and THE METROPOLITAN TRANSPORTATION AUTHORITY CAPITAL CONSTRUCTION COMPANY, MICHAEL HORODNICEANU, in his capacity as President of the Metropolitan Transportation Authority Capital Construction	RELATED CASE Y, RK e
Company, Defendants.	

RECITALS:

Plaintiffs commenced the first above-captioned case against the Federal A. Transit Administration (the "FTA") and the Metropolitan Transportation Authority (the "MTA") and the Metropolitan Transportation Authority Capital Construction Company (the "MTACCC") on November 30, 2010 (the "FOI Case"). The FOI Case sets forth two counts under the Freedom of Information Act and the New York Freedom of Information Law, in the alternative, to compel the release of specified records and materials. The same Plaintiffs subsequently commenced the second above-captioned environmental lawsuit on February 16, 2011 (the "Environmental Case") seeking injunctive and related relief against the United States Department of Transportation ("USDOT"), Ray LaHood, in his capacity as Secretary of the USDOT, the FTA, and Peter M. Rogoff, in his capacity as administrator of the FTA (the "FTA Defendants"), and the MTA, Jay H. Walder, in his capacity as Chairman of the MTA, the New York City Transit Authority, Thomas F. Prendergast, Jr., in his capacity as President of the New York City Transit Authority, the MTACCC, and Michael Horodniceanu, in his capacity as President of the MTACCC (collectively, the "MTA Defendants"). The Environmental Case was accepted by the Court (Griesa, J.) as related on February 28, 2011.

B. The attorneys for the Plaintiffs and each of the Defendants in the FOI Case and the Environmental Case (collectively, the "Parties") appeared for the first pretrial conference (the "PTC") in the FOI Case on February 25, 2011. At the conclusion of the PTC, the Court directed the Parties to make good faith efforts to settle both cases. In this connection, the Plaintiff and the MTA Defendants entered into a stipulation regarding the

release of confidential information required to proceed with settlement discussions in accordance with Rule 26(c) of the Federal Rules of Civil Procedure (the "Confidentiality Stipulation").

- C. The Confidentiality Stipulation was so ordered and entered by the Court on March 23, 2011 (FOI Case, ECF No. 20).
- D. After the production and review of records and information in excess of 10,000 pages under the Confidentiality Stipulation, including the review of architectural, engineering, and other technical information and documentation, the Parties in the FOI and Environmental Cases held two settlement conferences on April 11, 2011 and July 14, 2011.
- E. The Parties have reviewed and analyzed settlement proposals made at the first and second settlement conferences, and are continuing settlement discussions regarding the submissions made at the second settlement conference. This will take the Parties past the current time extensions for opposing the pending motion to dismiss in the FOI Case, and the time to answer in the Environmental Case.

NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the attorneys for Plaintiffs, the MTA Defendants and the FTA Defendants as follows:

- 1. Each of the above Recitals are incorporated as if fully set forth here.
- 2. The MTA Defendants and the FTA Defendants' time to answer, or to move against the Complaint in the Environmental Case is extended from July 27, 2011 to on or

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before September 27, 2011, pending the outcome of settlement negotiations by the

Parties.

3. Defendants MTA's and MTACC's motion to dismiss the FOI Action (First

Case, ECF Nos. 17 and 18), is hereby withdrawn without prejudice to its refiling, and

MTA and MTACC shall move to dismiss or answer the complaint in the FOI Action on

or before September 27, 2011, pending the outcome of settlement negotiations by the

Parties. In the event that the motion to dismiss is refiled, Plaintiffs' time to serve their

opposing papers shall be on or before October 4, 2011.

4. The Parties may agree to further extensions of time set forth in \P 2 and 3

above as may be helpful or necessary to conclude settlement terms and conditions.

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5. This Stipulation may be signed, emailed or faxed in counterpart, and if so signed, emailed or faxed, shall be considered the equivalent of one fully signed agreement for all purposes.

Dated: July 27, 2011

New York, New York

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Attorneys for United States Department of Transportation, Ray LaHood, in his capacity as Secretary of the Department of Transportation, the Federal Transit Administration, and Peter M. Rogoff, in his capacity as administrator of the Federal Transit Administration

So ordered this <u>28</u>th day of July 2011

Hon. Thomas P. Griesa

United States District Judge

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